

**UNITED STATES OF AMERICA  
MERIT SYSTEMS PROTECTION BOARD**

SPECIAL COUNSEL,	)	
	)	
Petitioner,	)	DOCKET NUMBER:
	)	
v.	)	
	)	DATE: February 11, 2025
MARN'I WASHINGTON,	)	
	)	
Respondent.	)	
	)	

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**COMPLAINT FOR DISCIPLINARY ACTION**

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Petitioner U.S. Office of Special Counsel (OSC) brings this Complaint for disciplinary action for violating the Hatch Act, 5 U.S.C. §§ 7321-7326, against Respondent Marn'i Washington pursuant to 5 U.S.C. §§ 1212(a)(5), 1215(a)(1), 1216(a)(1), 1216(c), 7323(a)(1), and 7324(a)(1), and 5 C.F.R. §§ 734.102(a), 734.302, and 734.306(a)(1). The U.S. Merit Systems Protection Board (Board) has authority to adjudicate this action pursuant to 5 U.S.C. §§ 1204(a)(1), 1215(a)(1), 1216(c), and 7326.

The Hatch Act governs the political activity of federal civilian executive branch employees. *See generally* 5 U.S.C. §§ 7321-7326. Its prohibitions apply to those employed in an "Executive agency," 5 U.S.C. § 7322(1)(A), including the Federal Emergency Management Agency (FEMA). *See* 5 U.S.C. § 101; 6 U.S.C. § 313.

Congress passed the Hatch Act in 1939 to address the “scandalous political manipulations of Federal relief appropriations . . . .” 84 Cong. Rec. 9598 (July 20, 1939) (statement of Rep. Taylor). The Supreme Court has recognized that one of Congress’s goals in passing the Hatch Act was to ensure that government programs are administered in a nonpartisan manner. In a 1973 decision affirming the constitutionality of the Hatch Act, the Court wrote that government employees “are expected to enforce the law and execute the programs of the Government without bias or favoritism for or against any political party or group or the members thereof.” *U.S. Civil Serv. Comm’n v. Nat’l Ass’n of Letter Carriers*, 513 U.S. 548, 564 (1973) (emphasis added).

OSC brings this Complaint because Washington showed bias against supporters of a candidate for partisan political office while Washington was overseeing federal government personnel performing disaster relief work. Specifically, Washington instructed subordinate government employees to “avoid homes advertising Trump” when canvassing neighborhoods to assist survivors of Hurricane Milton.

#### **I. STATEMENT OF SUPPORTING FACTS**

1. At all times relevant to this Complaint, Washington was an Emergency Management Specialist employed by FEMA.
2. In that role, and at all times relevant to this Complaint, Washington was a federal employee covered by the Hatch Act.
3. As an Emergency Management Specialist, Washington was an “on-call” employee who was notified by FEMA of opportunities to deploy in response to federally-declared disasters.

4. In or about October 2024, Washington deployed to Florida to assist survivors of Hurricane Milton.

5. On or about October 20, 2024, Washington became the supervisor, or crew leader, for FEMA Crew 33 in Highlands County, Florida.

6. On October 22, 2024, Washington held a meeting with members of Crew 33 before their first day of canvassing, *i.e.*, going door-to-door to contact survivors of Hurricane Milton and help them apply for federal disaster assistance.

7. During that October 22 meeting, Washington instructed members of Crew 33 to avoid homes with Trump 2024 campaign signage.

8. FEMA personnel generally avoid visiting properties that present a safety threat, such as properties with: “No Trespassing” or “Shoot on Sight” signs; loose dogs or other potentially aggressive animals; or physical barriers that make it unsafe to access a property.

9. The presence of a campaign sign is not a reason that FEMA personnel would or should avoid visiting a property.

10. Washington’s instruction on October 22 to avoid homes with Trump 2024 campaign signage was not based upon any reported safety concerns from Crew 33 because, at that time, Crew 33 had not yet begun canvassing.

11. After the October 22 meeting with Washington, members of Crew 33 began canvassing and recorded their efforts in a program called Survey123.

12. On October 22 two members of Crew 33 noted in Survey123 that they did not visit properties due to the presence of a “Trump flag.”

13. From October 22, 2024, until at least October 26, 2024, Washington repeated her instruction to Crew 33 members that they avoid homes with Trump 2024 campaign signage.

14. On October 26, 2024, Washington sent Crew 33 a Microsoft Teams chat message in which Washington said that they should:

Implement best practices:

- not [sic] one goes anywhere alone
- avoid homes advertising Trump
- practice de-escalation and preventative measures
- communicate and follow the rules . . .

15. Between October 22, 2024, and October 27, 2024, five different members of Crew 33 made Survey123 entries noting that they did not visit a home due to the presence of Trump 2024 campaign signage.

16. There were no reports in Highlands County of safety concerns at properties with Trump 2024 campaign signs. In particular:

- a. No member of Crew 33 made a written report of any safety concerns at a property with Trump 2024 campaign signage.
- b. None of Washington's daily summary reports to FEMA managers and the Highlands County Emergency Manager noted safety concerns at properties with Trump 2024 campaign signage.

17. Beginning at least as early as October 24, 2024, members of Crew 33 reported that Washington was instructing her subordinates to avoid homes with Trump 2024 campaign signage.

18. On or about October 29, 2024, a FEMA manager spoke with Washington by phone and asked Washington if she was instructing her team to avoid homes with Trump 2024 campaign signage.

19. During the October 29, 2024 call with a FEMA manager, Washington denied instructing her team to avoid homes with Trump 2024 campaign signage.

20. Instead, Washington said that she advised her team to avoid homes that had “no trespassing,” “shoot on sight,” or equivalent signs evincing an obvious threat to safety.

21. After the October 29, 2024 call with a FEMA manager, Washington emailed the FEMA manager and said, “My team has registered Trump supporters however, we’ve avoided the Trump supporters that have signage stating they’ll shoot us onsite [sic].”

22. Washington did not tell the FEMA manager that she had instructed Crew 33, in writing, to “avoid homes advertising Trump” and that the instruction did not refer to any other types of signage that might evince a safety concern.

23. Shortly after receiving conclusive evidence that Washington had instructed her team to “avoid homes advertising Trump,” FEMA demobilized Washington on or about November 7, 2024.

24. FEMA terminated Washington’s employment on or about November 9, 2024.

## **II. STATEMENT OF CHARGES**

### **A. Count One: Violation of 5 U.S.C. § 7324(a)(1) and 5 C.F.R. § 734.306(a)(1) – Engaging in political activity while on duty.**

25. Paragraphs one through 22 are hereby incorporated by reference.

26. The Hatch Act prohibits an employee from engaging in political activity while on duty. 5 U.S.C. § 7324(a)(1).

27. Washington was “on duty,” as defined in 5 C.F.R. § 734.101, when she instructed members of Crew 33 to “avoid homes advertising Trump,” as described in paragraphs six through 14.

28. At the time Washington instructed members of Crew 33 to “avoid homes advertising Trump,” Donald J. Trump was the Republican Party’s nominee for President of the United States of America and therefore a candidate for partisan political office, as defined in 5 C.F.R. § 734.101.

29. By instructing members of Crew 33 to “avoid homes advertising Trump,” as described in paragraphs six through 14, Washington engaged in political activity *i.e.*, “activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.” 5 C.F.R. § 734.101.

**B. Count Two: Violation of 5 U.S.C. § 7323(a)(1) and 5 C.F.R. § 734.302(a) – Using one’s official authority or influence for the purpose of interfering with or affecting the result of an election.**

30. Paragraphs one through 22 are hereby incorporated by reference.

31. The Hatch Act prohibits an employee from using her official authority or influence to interfere with or affect the results of an election. 5 U.S.C. § 7323(a)(1).

32. Washington engaged in political activity when she instructed members of Crew 33 to “avoid homes advertising Trump,” as described in paragraphs six through 14.

33. Washington directed her political activity at the members of Crew 33, all of whom were subordinate to her.

34. By directing political activity at her subordinates, Washington used her official authority or influence for the purpose of interfering with or affecting the result of an election.

**WHEREFORE**, Washington violated 5 U.S.C. § 7324(a)(1) and 5 C.F.R. § 734.306(a)(1) by engaging in political activity while on duty, and 5 U.S.C. § 7323(a)(1) and 5 C.F.R. § 734.302(a) by directing political activity towards subordinate federal employees. OSC requests that the Board find that Washington violated the Hatch Act and impose an appropriate penalty pursuant to 5 U.S.C. § 7326.

Respectfully submitted,

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